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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF HAWAII

UNITED STATES OF AMERICA,)	CR. NO. 05-00261 HG
)	
Plaintiff,)	MEMORANDUM OF LAW IN
)	SUPPORT OF MOTION
vs.)	
)	
JAMES TROIANO, (01))	
)	
Defendant.)	
)	
)	
)	
)	
)	

MEMORANDUM OF LAW IN SUPPORT OF MOTION

The defense offers to stipulate that he has been convicted of a felony and that the State has proven one of the essential elements of count IV, felon in possession of a firearm, 18 U.S. C. 922(g)(1).

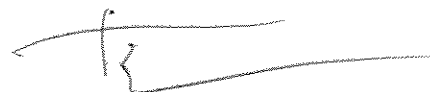
In Old Chief, the United States Supreme Court held in a prosecution of an

alleged felon for firearm possession, that the trial court abused its discretion in allowing evidence of the name and nature of a prior assault offense, where the defendant had offered to stipulate to the prior conviction. The basis of the Court's decision was that the risk of unfair prejudice to the defendant from such evidence of the name and nature of the prior offense would be substantial and lure a juror into a sequence of bad-character reasoning. The Supreme Court reasoned that the risk that a jury would convict for crimes other than those charged -- or that the jury, uncertain of guilt, will convict anyway because a bad person deserves punishment -- created a prejudicial effect that outweighs probative value under FRE Rule 403, when an admission from the defendant was available.

In the felon in possession charge in count IV, the unfair prejudice of adducing evidence of a prior burglary charge to simply establish that the defendant has previously been convicted of a felony, substantially outweighs the evidence's probative value. Consequently, based on HRE Rule 403 and Old Chief, such evidence should be excluded.

DATED: Honolulu, Hawaii, February 23, 2006.

BY:

A handwritten signature in black ink, appearing to read 'T Eddins', written over a horizontal line.

TODD EDDINS

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing document was duly served upon the following parties via hand delivery on February 23, 2006.

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DATED: Honolulu, Hawaii, February 23, 2006



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